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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3495 OF 2007

Rajendra Jambu Salunkhe .. Applicant

V/s

The State of Maharashtra .. Respondent

Mr.Umesh Mankapure for the applicant.

Mr.K.V. Saste, A.P.P. for the State.

CORAM : D.G. KARNIK, J.

DATE : 20TH NOVEMBER 2007

P.C. :

1. Heard learned counsel for the applicant and the learned A.P.P.

2. The applicant is arrested in connection with the crime punishable under section 302 of the I.P.C. Charge sheet has been filed. Regular bail application made by the applicant to the Sessions Court has been rejected by an order dated 10th August 2007.

3. Learned counsel for the applicant pointed out

that the other three co-accused have been granted bail by this court in Criminal Application No.4546 of 2006 decided on 22nd December 2006, Criminal Application No.727 of 2007 decided on 10th April 2007 and Criminal Application No.1916 of 2007 decided on 13th July 2007. Learned counsel therefore submitted that the applicant is entitled to a bail on the ground of parity.

4. Though the case of one of the accused (in Criminal Application No.4546 of 2006) may stand on a different footing, the case of the other two accused appears to be similar to the present applicant. Both of them have been granted bail by this Court. It is also significant to note that the entire case is based on the circumstantial evidence. There is no eye witness to the offence. The motive for the offence appears to be weak. Learned A.P.P. stated that the applicant killed the deceased because the deceased demanded money for the liquor sold to him. What was the amount due is not clear. The only ground on which the Sessions Judge rejected the bail to the applicant is that the applicant is an habitual offender and is involved in crimes registered at Sangli, Kavathe Mahankal, Shahuwadi and other police stations. None of these cases have been decided and the applicant has not been convicted in any case. In the circumstances, the applicant cannot be

said to be habitual offender merely on the basis that some cases are pending against him. Merely on that ground, the application for bail of the applicant cannot be rejected, especially when all other co-accused have been granted bail.

5. Taking the overall view and also looking to the fact that the other three co-accused have been granted bail, I am inclined to grant bail to the applicant. In the circumstances, I pass the following order:-

ORDER

(1) The applicant be released on bail in the sum of Rs.50,000/- with one or two sureties in the aggregate of the like amount, subject to the following conditions.

(a) The applicant shall not make any inducement or threats to the prosecution witnesses.

(b) The applicant shall cooperate with the Sessions Court for expeditious hearing of the trial.

(c) In the event the applicant commits breach of any of the aforesaid conditions, the prosecution shall be entitled to move for

cancellation of bail of the applicant.

(2) It is clarified that the observations made in this order are prima facie and the Sessions Court shall hear the case on merits without being in any way influenced by the observations made in this order.

(D.G. KARNIK, J.)